IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE CIVIL JURISDICTION
WRIT PETITION NO.2995 OF 2007

Mahendra Mamtaram Auti .. Petitioner
v/s.
President/Secretary,
Mahatma Phule Shikshan Sanstha, Mumbai
and others .. Respondents

Mr. S.B. Deshpande for the petitioner.
Mr. V.A. Kohir for the respondent Nos.1 and 2.
Mr. Shaikh Masia Shaikh for the respondent No.3.

CORAM : F.I. REBELLO AND
R.M. SAVANT, JJ.
DATED : 24TH APRIL, 2007

P.C.

Rule. Heard forthwith.

2. The petitioner admittedly was appointed in Chatrapati Shivaji Vidyalaya in the year 1999. That is a recognised and aided school. The petitioner's appointment was approved and he has been drawing salary in terms of grants released by the State Government.

3. The petitioner approached this court on the ground that he has been transferred to a non-aided school and the Management is not paying the salary which the petitioner is entitled to.

4. It is the case of the Management that respondent No.3 is untrained teacher who was earlier in their service but subsequently had ceased to be in the service. The respondent No.3 filed an appeal

before the School Tribunal which has been allowed. The Management has preferred writ petition before this court against the said order. The writ petition has been admitted but no interim relief has been granted. It is, therefore, submitted that it is not possible for the Management to pay the salary to two persons.

5. Admittedly, in the instant case, the petitioner's appointment has been approved. The respondent No.3 has been reinstated. Once a teacher is reinstated in the recognised school, whether post is aided or not, the Management has to comply with the requirement of law. That does not mean that on account of their internal disputes, the petitioner's right can be denied.

6. On behalf of the respondent No.3, it is pointed out that writ petition No.4297 of 2006 has been jointly filed by the petitioner herein with the Management.

7. Considering the above, we are of the opinion, that the transfer of the petitioner to the non-aided school is arbitrary, based on a non-existent and extraneous ground and in the light of that, rule is made absolute in terms of prayer clause (b).

(F.I. REBELLO, J.)

(R.M. SAVANT, J.)